

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

Bankr. No. 21-41171 KLT

Natalia Rose Nevin,

Debtor.

Chapter 7

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**ORDER**

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This matter came before the Court on the United States Trustee's Unsworn Declaration of Non-Compliance ("Declaration") [ECF No. 55]. The Declaration notified the Court of Kevin Nevin's failure to comply with this Court's February 27, 2022 Contempt Order [ECF No. 45], which is a continuance of his refusal to comply with United States Trustee's discovery requests also authorized by order of this Court. Paragraph 5 of the Contempt Order provided for the Court to issue a Bench Warrant for Mr. Nevin to compel compliance.

In considering the sanction of incarceration requested by the United States Trustee, the Court considers the *United Mine Workers of America* factors:

[W]here the purpose is to make the defendant comply . . . [the Court] must then consider the character and magnitude of the harm threatened by continued contumacy, and the probable effectiveness of any suggested sanction in bringing about the result desired.

*U.S. v. United Mine Workers of America*, 330 U.S. 258, 304 (1947); accord *Chiganti & Assocs., P.C. v. Nowotny*, 470 F.3d 1215, 1224 (8th Cir. 2006).

Here, in considering the sanction as to Mr. Nevin, the Court again considered these factors. Mr. Nevin's refusal to comply deprives the United States Trustee and the Panel Trustee of critical, time-sensitive information related to the disposition of potentially recoverable estate assets. Mr. Nevin's refusal to respond in any manner to repeated efforts by the United States Trustee to obtain compliance, including repeated personal service and the threat of incarceration provided in the Contempt Order, indicate that mere monetary sanction is unlikely to secure compliance.

Accordingly, the Court considers incarceration the "least possible power adequate to the end proposed." *Shillitani v. U.S.*, 384 U.S. 364, 371 (1966); accord *Taylor v. Finch*, 423 F.2d 1277, 1279 (8th Cir. 1970); see also *Coleman v. Espy*, 986 F.2d 1184, 1990 (8th Cir. 1993) ("With coercive contempt penalties, the court issues sanctions such as fines or incarceration to force the offending party to comply with the court's order."); *U.S. v. Open Access Tech. Intern., Inc.*, 527 F.Supp.2d 910, 912 (D. Minn. 2007) ("The Court may levy a fine against the party in contempt, which is payable to the moving party or to the Court, or may order imprisonment."); *In re Boyd*,

17-60096, ECF No. 54 (Bankr. D. Minn. Sept. 10, 2018) (ordering incarceration for civil contempt to compel compliance).

Accordingly, and for reasons already stated in the record,

IT IS ORDERED:

1. A Bench Warrant for the arrest of Kevin Nevin shall issue.
2. Mr. Nevin shall be brought into the custody of the United States and before this Court for his failure to comply with the Court's Contempt Order [ECF No. 45].

DATED: *March 9, 2022*



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Kesha L. Tanabe  
United States Bankruptcy Judge

NOTICE OF ELECTRONIC ENTRY AND FILING ORDER OR JUDGMENT Filed and Docket Entry made on <i>03/09/2022</i> Tricia Pepin, Clerk, by AB
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In re:  
NATALIA ROSE NEVIN  
Debtor

Case No. 21-41171-KLT  
Chapter 7

## CERTIFICATE OF NOTICE

District/off: 0864-4  
Date Rcvd: Mar 09, 2022

User: admin  
Form ID: pdf111

Page 1 of 2  
Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
#	Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update. While the notice was still deliverable, the notice recipient was advised to update its address with the court immediately.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 11, 2022:

Recip ID	Recipient Name and Address
db	+ NATALIA ROSE NEVIN, 817 W 57TH ST., Minneapolis, MN 55419-1729
aty	+ Fuller Seaver & Swanson PA, 12400 Portland Ave S, Ste 132, Burnsville, MN 55337-6805
	#+ Kevin Nevin, 500 E. Grant Street, #408, Minneapolis, MN 55404-1428
	+ Kevin Nevin, 4920 Underwood Lane N, #B, Plymouth, MN 55442-4516

TOTAL: 4

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 11, 2022

Signature: /s/Joseph Speetjens

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 9, 2022 at the address(es) listed below:

Name	Email Address
Colin Kreuziger	on behalf of U.S. Trustee US Trustee Colin.Kreuziger@usdoj.gov Nissa.L.Atkinson@usdoj.gov;Bethany.Sibenaller@usdoj.gov
John D. Lamey, III	on behalf of Debtor 1 NATALIA ROSE NEVIN bankrupt@lameylaw.com MGangi@lameylaw.com;ewise@lameylaw.com
Matthew D. Swanson	on behalf of Trustee Randall L. Seaver mswanson@fssklaw.com heidi@greensteinsellers.com
Randall L. Seaver	

District/off: 0864-4

User: admin

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Date Rcvd: Mar 09, 2022

Form ID: pdf111

Total Noticed: 4

rseaver@fssklaw.com rseaver@ecf.axosfs.com

US Trustee

ustpreion12.mn.ecf@usdoj.gov

TOTAL: 5